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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,141	10/19/2001	Jean C. Congard	CONGRAD-2	7548
1444	7590	03/30/2005	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			BAREFORD, KATHERINE A	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/982,141	Applicant(s) CONGARD ET AL.	
Examiner Katherine A. Bareford	Art Unit 1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7, 11, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

20

DETAILED ACTION

1. This office action is in response to the Amendment by applicant of February 23, 2005.
2. Now pending in the case are claims 7-11 (the elected claim), claim 13 (a linking claim) and claims 1-6 and 12 (withdrawn restricted out claims), and new claim 14.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
5. Claims 7, 11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/55465 (hereinafter '465).

Claim 7: '465 teaches a method for supplying coating products to at least one spraying device. Figures 1-3 and page 1 (the spray bottles). By spraying the device would atomize the coating products, by the nature of spraying. The spraying device would be part of a spraying

“installation” since the spray device or devices would be an apparatus used for spraying. The supply method includes displacing at least one principal tank (container 36 forms a “tank” for holding liquid) up to the vicinity of a secondary tank (dispenser 12 has a liquid containing area 20, a “tank” area, for holding liquid). See figures 2-3 and page 8, line 10 through page 9, line 23 (note the movement of the container 36 closer to the spray bottle from figure 2 to figure 3 by lifting and pouring). This secondary tank is intended for use with an atomizer (sprayhead 22). Figure 2 and page 8, lines 12-16. The coating product is transferred from the principal tank towards the secondary tank after the displacing step. Figure 3 and page 9, lines 14-23. The atomizer is connected to the secondary tank. Page 8, lines 12-16 and figures 2-3 (through downtube 24).

Claim 11: as shown by '465 multiple spray devices can be used. See figure 1.

Claim 13: '465 also teaches a device for supplying coating products to at least one spraying device. Figures 1-3 and page 1 (the spray bottles). By spraying the device would atomize the coating products, by the nature of spraying. The spraying device would be part of a spraying “installation” since the spray device or devices would be an apparatus used for spraying. The supply method includes means for displacing at least one principal tank (container 36 forms a “tank” for holding liquid) up to the vicinity of a secondary tank (dispenser 12 has a liquid containing area 20, a “tank” area, for holding liquid) by hand movement as shown. See figures 2-3 and page 8, line 10 through page 9, line 23. The means for displacing can also be by placing the principal tank (from containers 38, 40, 42) on a wheeled cart to be moved to a dispensing location, which at least partially moves it the dispenser 12 with its secondary tank area 22. See

figure 1 and page 13, lines 10-15. This secondary tank is intended for use with an atomizer (sprayhead 22). Figure 2 and page 8, lines 12-16. Means are provided for transferring the coating product is from the principal tank towards the secondary tank after the displacing step. figure 3 and page 9, lines 14-23 (by pouring) or figure 1 and page 11, lines 10-22 (through tubes 50). Means are provided for supplying atomizer with coating product from the secondary tank. Figure 2 and page 8, lines 12-16 (through downtube 24).

Claim 14: the principal tank (containers 38, 40, 42) can be mounted on a wheeled cart, which would be a "conveying device" to be moved to the vicinity of the secondary tank. See figure 1 and page 13, lines 10-15.

'465 teaches all the features of these claims except (1) specifically supplying the atomizer with coating products (claim 7), (2) that the principal tank contains enough coating to supply different atomizers with enough coating to spray an object (claim 11) and (3) means precisely as described in the specification (claims 13, 14).

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify '465 to (1) supply the atomizer with the coating products introduced into the secondary tank because '465 teaches a spray device with a sprayhead 22 connected to a secondary tank 20 by means of a downtube 24 and that it is desired to use the spray device to spray coating material from the secondary tank. As a result, it would be desired to supply the atomizer (sprayhead 22) with the coating material from the secondary tank 20 so that spraying can actually occur. It would further have been obvious (2) to modify '465 to provide that the principal tank can supply multiple spray devices with enough coating to coat a single

object by optimizing the size of the principal tank and the amount of coating inside, because '465 indicates that multiple spray devices can be filled using the spray mixture from the principal tank and there is no limitation on the size of the object to be sprayed and also indicates the desire to fill with an amount for minimal refill (page 13, lines 1-10), thus suggesting to one of ordinary skill in the art to provide enough material to a spray bottle to cover the size of an object as desired. (3) As to claims 13-14, it is the Examiner's understanding that this "means" language indicates the use of "means plus function" language as in 35 USC 112, 6th paragraph. This indicates that the "means" claimed is that described in the specification or its equivalents. Thus, as to the claimed "means" it would further have been obvious to modify '465 to provide the equivalent "means for displacing" of the principal tank of applicant (page 3 of the specification, a conveyor) by providing the principal tank on the wheeled cart, which would act as a conveyor; or by moving the tank by hand motion which would provide an identical movement of the tank. As to the "means for transferring" of applicant, page 8 describes a "coupling means" that allows transfer, it would be suggested that the transfer means '465 (the tubes 50) would be an equivalent means, since the tubes also connect the two principal tanks. As to the "means for supplying the atomizer", it appears that this means connecting the atomizer to the secondary tank so that coating can transfer (from applicant's specification), and it would be suggested that the downtube 24 of '465 would be equivalent to this, since a connection to the sprayhead 22 and the tank 20 is provided by this downtube.

Allowable Subject Matter

6. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

'465 does not teach or suggest the use of the robot system as claimed.

Election/Restrictions

7. As to the withdrawn claims 1-6 and 12, these claims will not be rejoined, and the restriction requirement is maintained, as "linking claim" 13 has not be found allowable.

Response to Arguments

8. Applicant's arguments filed February 23, 2005 have been fully considered but they are not persuasive.

As to applicant's arguments that the reference only provides dispensing by manual operation, while applicant uses automatic mechanical means, and that according to 35 USC 112, claim limitations shall be construed to cover the corresponding structure materials or acts described in the specification (see pages 7-9 of the amendment), the Examiner has reviewed these arguments, however the rejection is maintained. As discussed in MPEP 2111, during patent examination, claims must be given their broadest reasonable interpretation consistent with the specification. The mere fact that applicant's specification is directed to a mechanical method does not prevent a manual operation from reading on the claims. See the discussion in MPEP of

wp In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969), where in

that case the claims were not limited to a machine when a mental process augmented by paper and pencil could be used. The court explained that “reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from ‘reading limitations of the specification into a claim,’ to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim.” Also note that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In present claim 7, the independent method claim, there no explicit requirement that a machine be used to perform the steps. As to device claim 13, “means” requirements, apparently under 35 USC 112, 6th paragraph, means plus function language, are present. However, on pages 4-5 of the last Office Action, the Examiner made a full analysis of what mechanical means are present in the specification that correspond equivalently to the “means” of applicant. Furthermore, as to the broad providing of automatic or mechanical means to replace a manual activity, this is not sufficient to distinguish over the prior art. See *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958), as discussed in MPEP 2144.04 (see section III).

As to applicant’s arguments that the present invention is directed to spraying coating products, and that the reference does not provide such products (see page 10 of the Remarks), the Examiner has reviewed these arguments, however, the rejection is maintained. At page 1 of ‘465, spraying of “cleaners, soaps, insecticides, hair spray, etc.” is taught (see page 1, lines 15-20). These materials would be generally understood to be coatings since they are a material that would

be applied to a surface and would stay on that surface covering it for a period of time. Note how hair spray, for example, would stick to and cover hair after it is applied.

As to applicant's arguments that the wheeled cart would not be analogous to applicant's conveyor, as it would still be necessary to manually transport each dispenser to position beneath one of the tubes (see page 10 of the Remarks), the Examiner has reviewed these arguments, however, the rejection is maintained. As shown on page 8, lines 1-11 of the specification, the conveyor conveys the principal tank to the area of the spray robot with the secondary tank, then the spray robot with the secondary tank moves into position for transferring coating from the principal tank to the secondary tank. This is echoed in claim 13 which requires "means for displacing at least one principal tank up to the vicinity of at least one secondary tank". The manual transportation of the dispenser to the filling location after the wheeled cart is displaced near to the dispenser would not be prevented by the claims as worded or by the teaching of the conveyor tasks of the specification.

As to applicant's arguments as to claim 11 (see pages 10-11 of the Remarks), the Examiner has reviewed these arguments, however, the rejection is maintained. As shown by Figure 1, of '465 and page 11, lines 1-10, multiple bottles can be refilled in series, and the tanks of figure 1 would hold more than the spray bottles.

As to applicant's argument that the explanation of motivation does not include why those skilled in the art would be suggested to make these modifications (see page 11 of the Remarks), the Examiner has reviewed these arguments, however, the rejection is maintained. As to the different motivations for the missing elements (1), (2) and (3) as discussed in the rejection above,

(1) for supplying, this is provided so that desirable spraying can actually occur, as to (2) amount of coating for filling, this is suggested so as to provide enough material to a spray bottle to cover the size of an object as desired. As to (3) the Examiner has provided a discussion as to why the "means" of '465 are equivalent to that of applicant's claim.

As to applicant's arguments with regard to the interpretation of 112 6th paragraph (see page 11 of the Remarks), the Examiner has reviewed these arguments, however, the rejection is maintained. The Examiner has cited mechanical elements as to each "means".

As to claim 14, it is rejected for the reasons given in the rejection above.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine A. Bareford whose telephone number is (571) 272-1413. The examiner can normally be reached on M-F(6:00-3:30) with the First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Other inquiries can be directed to the Tech Center 1700 telephone number at (571) 272-1700.

Furthermore, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


KATHERINE BAREFORD
PRIMARY EXAMINER